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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 JOHN M. MANLEY,

15 Plaintiff,

16 v.

17 U.S. CUSTOMS AND BORDER
PROTECTION,

18 Defendant.
19

No. 2:24-cv-01427-JAK-SK

**DEFENDANT U.S. CUSTOMS AND
BORDER PROTECTION'S NOTICE
OF MOTION AND MOTION FOR
SUMMARY JUDGMENT**

(Concurrently filed with Separate Statement
of Uncontroverted Facts, Declarations in
Support, *Vaughn* Index, and Proposed
Judgment)

Hearing Date: June 2, 2025
Hearing Time: 8:30 a.m.
Ctrm: 10C

Honorable John A. Kronstadt
United States District Judge

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NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

PLEASE TAKE NOTICE that, on June 2, 2025 at 8:30 a.m., or as soon thereafter as they may be heard, Defendant U.S. Customs and Border Protection will bring for hearing this motion for an order granting summary judgment in favor of the Defendant. This Motion will be made before the Honorable John A. Kronstadt, United States District Judge, Courtroom 10C, located at First Street Federal Courthouse, 350 W. 1st Street, Los Angeles, CA 90012.

Defendant brings this motion under Federal Rule of Civil Procedure 56 on the grounds that the Defendant has fully complied with its obligations under the Freedom of Information Act (“FOIA”) and based on a court-approved stipulation [Dkt. 26-27], in response to Plaintiff John M. Manley’s FOIA Request. Because Plaintiff cannot raise a genuine dispute of material fact or otherwise prevail under the FOIA on his single claim for “violation of the FOIA,” Defendant is therefore entitled to judgment as a matter of law.

This motion is made upon this Notice, the attached Memorandum of Points and Authorities, the declarations of Patrick A. Howard, Lisa K. Santana Fox, and Alexander L. Farrell, the *Vaughn* Index,¹ the Separate Statement of Uncontroverted Facts, and all pleadings, records, and other documents on file with the Court in this action, and upon such oral argument as may be presented at the hearing of this motion.

This motion is made following the conference of counsel pursuant to Local Rule 7-3 which was held on March 28, 2025.

¹ A *Vaughn* Index is a document that is prepared in litigation to justify withholding of information under the FOIA. The term arose from the case of *Vaughn v. Rosen*, 484 F.2d 820, 823-25 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974), in which such an index was required to determine the validity of the agency’s withholdings. *See also Yonemoto v. Dep’t of Veterans Affairs*, 686 F.3d 681, 688 (9th Cir. 2012) (describing requirements for *Vaughn* Index).

1 Dated: April 7, 2025

Respectfully submitted,

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant U.S. Customs and Border Protection (“Defendant” or “CBP”) has complied fully with its obligations under the Freedom of Information Act with respect to Plaintiff John Manley’s September 25, 2023, nine-part FOIA Request (the “FOIA Request”). As a result, CBP is entitled to summary judgment.

First, CBP, reviewed the FOIA Request upon receipt and, consistent with CBP’s FOIA processing and regulations, determined which subcomponents were most likely to have responsive records. CBP then directed those subcomponents to complete a search for records potentially responsive to the Plaintiff’s FOIA Request for “policies, practices, complaints, and data regarding CBP’s system for enforcing penalties against alleged SENTRI and NEXUS lane violators.” Dkt. 1 (Complaint) ¶ 40.

Second, CBP properly responded to the FOIA Request by (a) conducting an adequate search reasonably calculated to uncover all responsive documents based on the terms of the FOIA Request and (b) processing the records found following its search and applying appropriate exemptions under the FOIA – specifically Exemptions 6, 7(C), and 7(E). *See* 5 U.S.C. §§ 552(b)(6), 7(C), and 7(E).

Therefore, as there is not a genuine dispute of material fact, the Court should grant this motion and enter judgment in Defendant’s favor.

II. BACKGROUND AND PROCEDURAL HISTORY

A. Plaintiff’s Nine-Part FOIA Request – Dated September 25, 2023

On September 25, 2023, Plaintiff, through counsel, submitted a FOIA request via CBP’s online FOIA portal located at www.securerelease.us. Uncontroverted Fact (“UF”) 1. Plaintiff’s FOIA Request sought nine categories of records related to the policies, practices, complaints, and data regarding CBP’s system for enforcing penalties against

1 alleged SENTRI and NEXUS lane violators.² UF 1-2.

2 On February 21, 2024, Plaintiff filed this action. *See* Dkt. 1. Plaintiff alleges that
3 CBP failed to adequately search for and promptly release responsive records and that
4 CBP is wrongfully withholding documents. *See generally, id.* On August 13, 2024, CBP
5 filed an answer to the Complaint. Dkt. 16

6 **B. CBP’s Reasonable Search for and Production of Responsive Records**

7 1. Department of Homeland Security’s Decentralized FOIA System

8 CBP, an agency within the Department of Homeland Security (“DHS”) has a
9 decentralized system for responding to FOIA requests, as explained in its regulations:

10 DHS has a decentralized system for responding to FOIA requests, with each
11 component designating a FOIA office to process records from that
12 component. All components have the capability to receive requests
13 electronically, either through email or a web portal. To make a request for
14 DHS records, a requester should write directly to the FOIA office of the
15 component that maintains the records being sought. A request will receive
16 the quickest possible response if it is addressed to the FOIA office of the
17 component that maintains the records sought.... Each component’s FOIA
18 office and any additional requirements for submitting a request to a given
19 component are listed in appendix A to this part. These references can all be
20 used by requesters to determine where to send their requests within DHS.

21 6 C.F.R. § 5.3(a)(1).

22 ² The Department of Homeland Security has established the “Trusted Traveler
23 Programs,” risk-based programs that facilitate the entry of pre-approved travelers at U.S.
24 airports and Ports of Entry when crossing international borders of the United States. The
25 Department established the Secure Electronic Network for Travelers Rapid Inspection,
26 also known as the “SENTRI” program, is a subset of the Trusted Traveler Programs. The
27 SENTRI program is risk-based program that facilitates the entry of pre-approved
28 travelers to the United States from the country of Mexico. The Department has also
established the NEXUS program, another subset of the Trusted Traveler Programs. The
NEXUS program is risk-based program that facilitates the entry of pre-approved
travelers to the United States from the country of Canada.

1 DHS's decentralized FOIA system results in each component within DHS having
2 a designated FOIA office that processes records from that specific component. *See* 6
3 C.F.R. § 5.1(c).

4 2. CBP's FOIA Processing Division

5 Broadly, the FOIA Division at CBP reviews FOIA requests, determines whether
6 responsive records exist, and, if so, whether they can be released in accordance with the
7 FOIA. UF 3. In processing such requests, the FOIA Division consults with CBP
8 personnel and, when appropriate, with other components in the DHS, as well as other
9 Executive Branch agencies. UF 4.

10 When CBP receives a FOIA request that reasonably describes the records
11 requested and otherwise complies with the Agency's rules governing the procedures for
12 FOIA requests, CBP must search for and retrieve potentially responsive records. UF 5.
13 Based upon the requester's description of the records being sought, and the FOIA
14 Division's knowledge of the various CBP subcomponents' missions, the FOIA division
15 identifies the subcomponent(s) likely to possess responsive records. UF 6. Then the
16 FOIA division tasks the appropriate subcomponent(s) to conduct the necessary searches.
17 UF 7.

18 Once the FOIA Division determines the appropriate subcomponent(s) for a given
19 request, it assigns the request to the Point(s) of Contact ("POC(s)") in each of those
20 subcomponents and instructs them to conduct a search for responsive records. UF 8. The
21 POC(s) then review the FOIA request, along with any case-specific instructions provided
22 by the FOIA Division. UF 9. The POC(s) use their experience and knowledge of their
23 subcomponent's practices and activities to forward the FOIA request and instructions to
24 the individual employee(s) or office(s) within the subcomponent that they believe are
25 reasonably likely to have responsive records. UF 10.

26 Then the FOIA Division instructs individuals and offices to conduct searches of
27 the file systems (including both paper and electronic files) that in their judgment, based
28 on their knowledge of the manner in which they routinely keep records, would be the

1 most likely systems to contain responsive documents. UF 11.

2 Once those searches are completed, the individual(s) and program office(s)
3 provide any potentially responsive records along with a completed search form to the
4 assigned FOIA processor. UF 12. The FOIA processor then reviews the collected records
5 for responsiveness, application of appropriate FOIA exemptions, and the necessity of
6 any referrals and/or consultations. UF 13.

7 3. The CBP's Seized Assets and Case Tracking System ("SEACATS")

8 CBP's subcomponents use various systems to maintain records, such as personal
9 and shared drives, CBP systems such as SEACATS, and paper files. UF 11, 14.
10 SEACATS is the information system for records of import and export, fines and
11 penalties, and other enforcement incidents related to CBP and U.S. Immigration and
12 Customs Enforcement ("ICE") and Homeland Security Investigations. UF 14. The
13 system tracks the physical inventory and records disposition of all seized assets, as well
14 as the administrative and criminal cases associated with those seizures. UF 15.
15 SEACATS functions as the case management system capturing the relevant information
16 and adjudication of the legal outcomes of all fines, penalties, and liquidated damages.
17 UF 16. The SEACATS also serves as the financial system of record for all collections
18 related to these enforcement actions. UF 17. SEACATS holds the raw data of the records
19 mentioned above. UF 18. SEACATS does not hold or produce statistics. UF 19.
20 SEACATS is managed and operated by CBP's Office of Field Operations ("OFO") for
21 use by the OFO Office of Fines, Penalties, and Forfeitures ("FP&F"). UF 20.

22 4. CBP's Processing of Plaintiff's FOIA Request

23 CBP FOIA Division staff considered which CBP databases were likely to hold
24 information responsive to Plaintiff's FOIA request, based upon a careful review of the
25 content of the request itself and the nature of the records sought. UF 39. The FOIA
26 Division determined that OFO, Office of Trade Rules and Regulations ("R&R"), Office
27 of the Commissioner Compliments and Complaints Branch, were the offices that most
28 likely maintained records. UF 40.

OFO is responsible for all activity, including reviewing applicants for admission, at the port-of-entry (“POE”) along international borders, airports, and seaports, and Plaintiff’s FOIA request inquiries about POE programs SENTRI and NEXUS. UF 41. OFO then determined the various subcomponents that most likely maintained information responsive to Plaintiff’s FOIA request, including the Admissibility and Passenger Programs (“APP”), the Trusted Traveler Program (“TTP”), and FP&F. UF 42. After receiving instruction from the FOIA Division, the APP and the TTP subcomponents identified responsive records to Plaintiff’s Request. UF 43.

On April 2, 2024, FP&F’s Director, Lisa K. Santana Fox, reviewed Plaintiff’s request and assigned the search of records to a SEACATS program manager within FP&F at OFO Headquarters. UF 21.

FP&F used the key-word search terms “SENTRI” and “NEXUS” which were selected by FP&F management based on a review of Plaintiff’s FOIA request and consideration of what terms FP&F reasonably anticipated would “hit” upon potentially responsive documents and because of terminology used by the subcomponent. UF 22. FP&F conducted its search for responsive records using these broader search terms but excluded the term “nexus to the border.” UF 22. Additionally, parameters were set by dates and incident type. UF.

Based on the search, the FP&F did not find “Statistics reflecting the total number of fines and/or demands for payment issued by CBP for unauthorized use of the SENTRI lane, the dollar amount of each fine, the location where such fines were incurred, and the frequency of fines issued since January I, 2020.” UF 23-24.

C. Summary of Documents Produced

CBP produced records in response to Plaintiff’s FOIA request on four separate productions between June 2024 and December 2024. UF 25-34.

On June 24, 2024, CBP provided its first response and produced to the Plaintiff: records titled as Mitigation Guidelines Fines Penalties Forfeitures and Liquidated Damages, Feb 2004 (253 pages) whose custodian is FP&F; SENTRI no tag override IP

(2 page) whose custodian is TTP; and TTP Reconsideration Fact Sheet (2 pages) whose custodian is TTP. *Id.*

On June 26, 2024, CBP provided its second response and produced to the Plaintiff: records titled as 2022 Final TTP Handbook HB 3300-011 (NTC-TTV) (78 pages) whose custodian is APP; Memo TTP Handbook JUNE2024 (1 page) whose custodian is APP. *Id.*

On October 10, 2024, CBP provided its third response and produced to the Plaintiff: 64 pages determined to be partially releasable whose custodian is Compliments and Complaints Branch. *Id.*

On December 5, 2024, CBP provided its fourth and final response and produced to the Plaintiff: 27 pages determined to be partially releasable whose custodian is R&R; 1 page of the TTP Handbook (unredacted). CBP also provided the following publicly available website link to general statistical records:

<https://www.cbp.gov/newsroom/stats/trade>. *Id.*

D. The *Vaughn* Index and the Parties' Stipulation to the Scope of Records in Dispute at Summary Judgment

Counsel for the parties met and conferred about the descriptions of the withheld information and basis for withholding that would be included in the anticipated *Vaughn* Index. Dkt. 26. On March 26, 2025, the parties entered a Stipulation, that the Court approved, as to the scope of the *Vaughn* Index of records that remain at issue in this case. Dkt. 27. Those records are identified in the chart below, which was included in the Stipulation and in the Court's Order:

<u>FOIA Production Document</u>	<u>Page Range and/or Document Section</u>	<u>Asserted FOIA Exemption</u>
Trusted Travelers Program ("TTP") Handbook	Bates Pages 41-44; Handbook Section 14	5 U.S.C. § 552(b)(7)(E)
TTP Handbook	Bates Pages 46-47, 49-52; Handbook Sections 16.1-16.2, 16.5	5 U.S.C. § 552(b)(7)(E)
TTP Handbook	Bates Pages 54-55;	5 U.S.C. § 552(b)(7)(E)

	Handbook Sections 16.10-16.11	
SENTRI no tag override (Apr. 30, 2018)	Bates Pages 1-2	5 U.S.C. § 552(b)(7)(E)
Memo TTP Handbook	Bates Page 1	5 U.S.C. § 552(b)(6); 5 U.S.C. § 552(b)(7)(C)

Dkt. 26-27. The *Vaughn* is based on the specific pages that Plaintiff stated he intended to challenge. After the parties met and conferred over the exemptions Plaintiff intended to challenge via summary judgment, and upon review of the arguments raised during the conference of counsel, CBP has prepared a finalized *Vaughn* Index that is filed concurrently with this Motion.

III. ARGUMENT

“FOIA was enacted to facilitate public access to Government documents.” *Lahr v. Nat’l Transp. Safety Bd.*, 569 F.3d 964, 973 (9th Cir. 2009) (quotation omitted). The statute represents a balance struck by Congress “between the right of the public to know and the need of the Government to keep information in confidence.” *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 152 (1989). Congress recognized “that legitimate governmental and private interests could be harmed by release of certain types of information and provided nine specific exemptions under which disclosure could be refused.” *FBI v. Abramson*, 456 U.S. 615, 621 (1982); *see also Lahr*, 569 F.3d at 973 (“FOIA contemplates that some information may legitimately be kept from the public. The statute contains nine enumerated exemptions allowing the government to withhold documents or portions of documents.”). While these exemptions are to be “narrowly construed,” *Abramson*, 456 U.S. at 630, courts must not fail to give them “meaningful reach and application.” *John Doe*, 493 U.S. at 152.

CBP has satisfied its obligations under FOIA with respect to Plaintiff’s Request. As the Declarations of Patrick A. Howard and Lisa K. Santana Fox and the incorporated *Vaughn* Index establish, and as described more fully below, that CBP met its obligations under the FOIA and conducted searches that were reasonably calculated to locate all

1 responsive records. CBP properly applied FOIA exemptions to withhold information
2 protected from disclosure by FOIA Exemptions 6 and 7(C), and released any reasonably
3 segregable, nonexempt portion of the records. *See* 5 U.S.C. §§ 552(b)(6), 7(C), and 7(e).
4 Those redactions were necessary and appropriate to protect governmental agency
5 communications and private individuals' personal privacy information and to protect law
6 enforcement techniques and procedures applicable to the ports of entry and border
7 security. Because CBP conducted an adequate search and has not improperly withheld
8 any non-exempt responsive records, there is no genuine issue as to any material fact and
9 summary judgment should be granted in Defendant's favor.

10 **A. CBP's Processing and Search Were Reasonably Calculated to Uncover**
11 **All Responsive Records**

12 In FOIA cases, "[t]he adequacy of the agency's search is judged by a standard of
13 reasonableness, construing the facts in the light most favorable to the requestor."
14 *Citizens Comm'n on Hum. Rights v. State Dept.*, 45 F.3d 1325, 1328 (9th Cir. 1995)
15 (*citing Zemansky v. EPA*, 767 F.2d 569, 571 (9th Cir. 1985)). An agency's search for
16 records is considered "adequate" if it was conducted "using methods which can be
17 reasonably expected to produce the information requested." *Nation Magazine v. U.S.*
18 *Customs Serv.*, 71 F.3d 885, 890 (D.C. Cir. 1995) (*quoting Oglesby v. U.S. Dep't of*
19 *Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)); *Lahr*, 569 F.3d at 986; *SafeCard Servs. Inc. v.*
20 *SEC*, 926 F.2d 1197, 1201 (D.C. Cir. 1991) (the agency need only show that "the search
21 was reasonably calculated to discover the requested documents, not whether it actually
22 uncovered every document extant."). The "issue to be resolved is not whether there
23 might exist any other documents possibly responsive to the request, but rather whether
24 the search for those documents was adequate." *Citizens Comm'n on Human Right*, 45
25 F.3d at 1328; *Iturralde v. Comptroller of Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003)
26 ("[T]he adequacy of a FOIA search is generally determined not by the fruits of the
27 search, but by the appropriateness of the methods used to carry out the search."). An
28 agency's search does not need to be exhaustive, but rather, merely reasonable. *Oglesby*,

1 920 F.2d at 68. The agency need not search every record system, but must conduct a
2 good faith, reasonable search of those systems of records likely to possess the requested
3 records. *Id.*

4 As explained in the Declarations of Patrick A. Howard and Lisa K. Santana Fox,
5 CBP conducted an adequate search for records in response to Plaintiff's FOIA request.
6 Howard Decl., ¶¶ 8-10, 16-22; Declaration of Lisa K. Santana Fox ("Santana Fox
7 Decl.") ¶¶ 5-7. Specifically, the CBP FOIA Division staff considered which CBP
8 databases were likely to hold responsive information based upon a careful review of the
9 content of the request itself and the nature of the records sought. Howard Decl. ¶ 16. The
10 FOIA Division determined that OFO, R&R, Office of the Commissioner Compliments
11 and Complaints Branch, were the offices that most likely maintained records. *Id.*
12 Moreover, OFO then determined the various subcomponents that most likely maintained
13 information responsive to Plaintiff's FOIA request, including the APP, the TTP, and
14 FP&F, all of which were searched and produced records to Plaintiff. *Id.* ¶¶ 17, 21. CBP
15 also provided a publicly available website link to general statistical records maintained
16 by the CBP that reasonably could be deemed responsive to the FOIA Request:
17 <https://www.cbp.gov/newsroom/stats/trade>. *Id.* ¶ 21.

18 Even further, FP&F's Director, Lisa K. Santana Fox, also reviewed Plaintiff's
19 request and assigned the search of records to a SEACATS program manager within
20 FP&F at OFO Headquarters. *Id.* ¶ 18; Santana Fox Decl. ¶ 4. Even though SEACATS
21 *only* holds the raw data of the records and does not hold or produce statistics, CBP still
22 conducted a search.³ *See* Santana Fox Decl. ¶¶ 5-7. When conducting the search, FP&F

23
24 ³ In addition, FOIA also does not require agencies to create new records, such as
25 creating the purported statistics that Plaintiff's Request seeks. *See Kissinger v. Reporters*
26 *Comm. For Freedom of the Press*, 445 U.S. 136, 152, (1980); *see also Singh v. Fed.*
27 *Aviation Admin.*, 783 F. App'x 753, 754 (9th Cir. 2019); *see also Frank v. U.S. Dep't of*
28 *Just.*, 941 F. Supp. 4, 5 (D.D.C. 1996). Plaintiff's FOIA Requests for "statistics" would
require CBP staff to review records, conduct significant research, collect, and then
interpret data, and create a new document to respond further, all of which is beyond what
(footnote cont'd on next page)

1 looked for all SENTRI and NEXUS lane violations. Howard Decl., ¶ 19. FP&F used
2 key-word search terms based on a review of Plaintiff's FOIA Request and consideration
3 of what terms FP&F reasonably anticipated would "hit" upon potentially responsive
4 documents. Howard Decl., ¶ 19; Santana Fox Decl. ¶¶ 5-6. No responsive records were
5 located. Santana Fox Decl. ¶ 7.

6 The CBP has searched all locations and files reasonably likely to contain
7 responsive records, and there is no basis for CBP to conclude that a search elsewhere
8 would reasonably be expected to locate responsive records subject to the FOIA. It has
9 therefore met its search obligations under the FOIA in response to Plaintiff's Request.

10 **B. Based on the Stipulated Documents at Issue, CBP Properly Withheld**
11 **Information under Applicable FOIA Exemptions**

12 1. The Information Redacted by CBP is Exempt under 5 U.S.C.
13 § 552(b)(6) and (b)(7)(C)

14 FOIA Exemption 6 applies to "personnel and medical files and similar files the
15 disclosure of which would constitute a clearly unwarranted invasion of personal
16 privacy." 5 U.S.C. § 552(b)(6).

17 There are two steps to determine whether Exemption 6 is properly applied. First,
18 as a threshold matter, the records must be determined to be personnel, medical, or similar
19 files. *Reed v. NLRB*, 927 F.2d 1249, 1250-51 (D.C. Cir. 1991). The Supreme Court has
20 directed lower courts to construe "similar files" broadly to apply to any "Government
21 records on an individual which can be identified as applying to that individual." *Id.* at
22 1251 (*citing United States Dep't of State v. Washington Post Co.*, 456 U.S. 595, 601-02
23 (1982)). Second, a court must weigh the relevant privacy interests in nondisclosure and
24 the public interests in disclosure and determine "whether, on balance, disclosure would
25 work a clearly unwarranted invasion of personal privacy." *Reed*, 927 F.2d at 1251 (*citing*
26 *National Ass'n of Retired Fed. Employees v. Horner*, 879 F.2d 873, 874 (D.C. Cir.

27 _____
28 FOIA mandates. CBP nonetheless still searched SEACATS and did not find any
responsive records.

1 1989)). Courts construing Exemption 6 have held that substantial privacy interests
2 cognizable under FOIA include personally identifiable information, such as a person’s
3 name, address, phone number, medical history, and Social Security number. *See, e.g.,*
4 *U.S. Dep’t of State v. Wash. Post Co.*, 456 U.S. 595, 600 (1982) (“Information such as
5 place of birth, date of birth, date of marriage, employment history, and comparable data
6 is not normally regarded as highly personal, and yet ... such information ... would be
7 exempt from any disclosure that would constitute a clearly unwarranted invasion of
8 personal privacy.”)

9 Based on guidance from the Supreme Court, the D.C. Circuit has recognized that
10 only “official information that sheds light on an agency’s performance of its statutory
11 duties” merits disclosure under FOIA, while “disclosure of information about private
12 citizens that is accumulated in various governmental files” would “reveal[] little or
13 nothing about an agency’s own conduct.” *Reed*, 927 F.2d at 1251 (quoting *United States*
14 *Dep’t of Justice v. Reporters Comm. for Freedom of the Press (Reporters Comm.)*, 489
15 U.S. 749, 773 (1989)); *see also Sellers v. IRS*, 2009 WL 700647, at *14 (D. Ore. 2009)
16 (citation omitted).

17 Similarly, Exemption 7(C) protects from disclosure “records or information
18 compiled for law enforcement purposes” to the extent that their disclosure “could
19 reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5
20 U.S.C. § 552(b)(7)(C).

21 While Exemptions 6 and 7(C) are similar, they require different analyses, as
22 “Exemption 7(C)’s privacy language is broader than the comparable language in
23 Exemption 6 in two respects.” *Reporters Comm.*, 489 U.S. at 756. First, Exemption 6
24 “requires that the invasion of privacy be ‘clearly unwarranted,’ a requirement omitted
25 from the language of Exemption 7(C).” *Lahr*, 569 F.3d at 974 (emphasis in original)
26 (quoting *Reporters Comm.*, 489 U.S. at 756). Second, while Exemption 7(C) prevents
27 disclosure of information that “could reasonably be expected to constitute” an
28 unwarranted invasion of privacy, Exemption 6 restricts disclosure of information that

1 “would constitute” an unwarranted invasion of privacy. *Id.* (citing *Reporters Comm.*, 489
2 U.S. at 755–56).

3 Exemption 7(C), therefore, is *more* protective of privacy interests than Exemption
4 6, as the “threatened invasion” of privacy “need not be as likely as where personnel,
5 medical, or similar files are at issue (Exemption 6).” *Hunt v. FBI*, 972 F.2d 286, 288 (9th
6 Cir. 1992); *see also U.S. Dep’t. of State v. Ray*, 502 U.S. 164, 172 (1991) (“[T]he
7 Government’s burden in establishing the requisite invasion of privacy to support an
8 Exemption 6 claim is heavier than the standard applicable to Exemption 7(C).”);
9 *Pomares v. U.S. Dep’t of Veterans Affs.*, 2023 WL 2378939, at *7 (S.D. Cal. Jan. 6,
10 2023) (“Exemption 7(C) is more protective of privacy interests than is Exemption 6
11”). Further, “although both exemptions require the court to engage in a similar
12 balancing analysis, they ‘differ in the magnitude of the public interest that is required to
13 override the respective privacy interests protected by the exemptions.’” *Lahr*, 569 F.3d at
14 974 (quoting *U.S. Dep’t of Defense v. Fed. Lab. Relations Auth.*, 510 U.S. 487, 496 n.6
15 (1994)).

16 Here, CBP asserted Exemptions 6 and 7(C) to protect name and contact
17 information of government employees, contained within the Memo Trusted Travelers
18 Program (TTP) Handbook (Bates p. 1). UF 36 (Howard Decl. ¶ 27). This document is a
19 memorandum that accompanied the distribution of the Trusted Traveler Program
20 Handbook. *Id.* Government employees, including CBP law enforcement officers, have a
21 protectable privacy interest in their identities that would be threatened by disclosure. *Id.*
22 Thus, for the reasons discussed above and in the agency’s declaration, the withholdings
23 under Exemptions 6 and 7(C) are proper.

24 2. The Information Redacted by CBP is Exempt under 5 U.S.C. § 552
25 (b)(7)(E)

26 Exemption 7(E) affords protection to law enforcement information that “would
27 disclose techniques and procedures for law enforcement investigations or prosecutions,
28 or would disclose guidelines for law enforcement investigations or prosecutions if such

1 disclosure could reasonably be expected to risk circumvention of the law.” *See* 5 U.S.C.
2 § 552(b)(7)(E).

3 Courts have construed Exemption 7(E) to encompass withholding of a wide range
4 of techniques and procedures, including certain databases used for law enforcement
5 purposes. *See, e.g., Shapiro v. DOJ*, 893 F.3d 796, 800-01 (D.C. Cir. 2018) (protecting
6 records generated by commercially-available database because release would reveal how
7 agency uses database and results it considers meaningful); *Blackwell v. FBI*, 646 F.3d
8 37, 42 (D.C. Cir. 2011) (affirming withholding of Choicepoint reports made to FBI
9 because particular method by which data is “searched, organized and reported” to FBI is
10 not publicly known, and release of such reports could allow criminals to develop
11 countermeasures to technique); *Gatson v. FBI*, 2017 WL 3783696, at *13 (D.N.J. Aug.
12 31, 2017) (unpublished disposition) (protecting “non-public database search results and
13 the printouts compiled therefrom”).

14 Here, CBP asserted Exemption 7(E) to protect sensitive information describing
15 secondary land border officer procedures, including specific technique/methods utilized
16 by the officers, the computer systems used by the officers to input information that is in
17 accordance with current policies and procedures for internal security systems, which
18 includes encrypted law enforcement codes and/or terminology, as well as systems
19 utilized by other Agencies. *See Vaughn Index*; UF 37-38 (Howard Decl. ¶¶ 29, 31).
20 Disclosure of this information would reveal law enforcement techniques and procedures
21 as to how CBP operates its ports of entry, which are immigration checkpoints and would
22 enable individuals seeking to violate immigration and customs laws and regulations to
23 circumvent the law by taking proactive steps to alter their behavior to further conceal
24 criminal activity and avoid detection during enforcement operations at the border. *See*
25 Howard Decl. ¶¶ 28-32. Thus, for the reasons discussed above and in the agency’s
26 declaration, the withholdings under Exemption 7(E) are proper.

3. CBP Has Released All Reasonably Segregable Portions of the
Responsive Records

Under FOIA, “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt” 5 U.S.C. § 552(b). The agency need not disclose non-exempt portions of a document if “they are inextricably intertwined with exempt portions such that the excision of exempt information would impose significant costs on the agency and produce an edited document with little informational value.” *Willamette Indus., Inc. v. United States*, 689 F.2d 865, 867-68 (9th Cir. 1982) (internal quotation marks and citations omitted). The agency must provide a “detailed justification” for its claim of non-segregability, but “is not required to provide so much detail that the exempt material would be effectively disclosed.” *Johnson v. Exec. Office for U.S. Attorneys*, 310 F.3d 771, 776 (D.C. Cir. 2002) (citation omitted). “The burden is on the agency to establish that all reasonably segregable portions of a document have been segregated and disclosed.” *Pac. Fisheries Inc. v. United States*, 539 F.3d 1143, 1148 (9th Cir. 2008) (citing 5 U.S.C. § 552(a)(4)(B), (b)). “The agency can meet its burden by offering an affidavit with reasonably detailed descriptions of the withheld portions of the documents and alleging facts sufficient to establish an exemption.” *Pac. Fisheries*, 539 F.3d at 1148 (internal citations omitted); see *Hamdan v. U.S. Dep’t of Justice*, 797 F.3d 759, 779 (9th Cir. 2015).

Here, CBP personnel conducted a careful page-by-page, line-by-line review of all records and disclosed all reasonably segregable information. See Howard Decl. ¶ 33. Therefore, CBP has complied with its obligation to segregate and release all reasonably segregable, non-exempt information related to Plaintiff’s Request.

**C. Any Rule 56(d) Request Should Be Denied Because CBP’s Supporting
Declarations Are Sufficiently Detailed**

Lastly, the parties previously disputed the need for discovery in this case, as addressed in the briefing on Defendant’s *Ex Parte* Application for a Protective Order.

1 Dkt. 22-25. The Court responded by amending the summary judgment scheduling order
2 and staying CBP's deadline to respond to written discovery, to allow Plaintiff time to
3 seek discovery pursuant to Fed. R. Civ. P. 56 (d) after the filing of Defendant's motion.
4 *See* Order (Dkt. 25).

5 To the extent Plaintiff continues to argue that discovery is necessary, Defendant
6 maintains that discovery is unwarranted in this case. Based on the Stipulation of the
7 parties regarding the limited remaining disputes and the evidence now produced in
8 support of Defendant's Motion for Summary Judgment, no additional discovery is
9 required in this FOIA action. The Declarations of Patrick A. Howard and Lisa K.
10 Santana Fox and supporting evidence are sufficient as a matter of fact and demonstrate
11 that Defendant has provided the information sought by Plaintiff's February 11, 2025
12 written discovery requests. *See* Declaration of Alexander L. Farrell ("Farrell Decl.") ¶¶
13 3-5; Exh. 1-2.

14 The Santana Fox Declaration adequately explains a search was conducted for
15 responsive records in SEACATS, and that the search did not identify any responsive
16 records. Further, the Howard Declaration adequately explains that although SEACATS
17 may hold raw data relevant to Plaintiff's request, it does not hold the statistics requested
18 by Plaintiff and therefore, could not produce such information. UF 14-19. Moreover, the
19 Howard Declaration sufficiently explained the basis for withholding information under
20 the claimed FOIA exemptions. Howard Decl. ¶¶ 25-32. Accordingly, the declarations
21 and the *Vaughn* Index sufficiently explain the FOIA search as well as the basis for the
22 redactions and the claimed exemptions under 5 U.S.C. § 552(b)(6) and (b)(7)(C) and
23 (b)(7)(E). As such, this Court should deny any request by Plaintiff to conduct additional
24 discovery in this case.

25 **IV. CONCLUSION**

26 For the reasons discussed above, Defendant CBP requests that the Court grant this
27 motion and enter judgment in its favor.
28

1 Dated: April 7, 2025

Respectfully submitted,

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12 **Local Rule 11-6.2 Certificate of Compliance**

13 The undersigned counsel of record certifies that this memorandum contains 4,795
14 words and is 15 pages in length, which complies with the word limit set by L.R. 11-6.1
15 and the page limit set by this Court's Standing Order [Dkt. 8].
16

17 Dated: April 7, 2025

/s/ Alexander L. Farrell

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